

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Special Department

Notification

SPL-EST-9364(2)

In exercise of the powers conferred on him by rule 9 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 read with Schedule thereto and all other powers enabling him in this behalf, the Administrator of Goa, Daman and Diu

hereby makes the following amendments and substitute the following entries in place of the existing entries against Serial No. 39 of the Schedule appended to the Notification of even number dated 13th January, 1970, regarding the Appointing, Disciplinary and Appellate Authority under the said rule for Class III and Class IV posts in the Administration of Union Territory of Goa, Daman and Diu consequent on the amalgamation of the General Statistics Department and the Plan Evaluation Organization into the Bureau of Economics, Statistics and Evaluation vide Planning Department's order No. 4-11-71-PLG dated 24th September, 1971 published in Official Gazette Series I No. 27 dated 30-9-1971.

Sr. No.	Description of service	Appointing authority	Authority competent to impose penalties which it may impose (with reference to numbers in rule 11)		Appellate authority
			Authority	Penalties	
1	2	3	4	5	6
39	Bureau of Economics, Statistics and Evaluation, and Progress Assistants and Statistical Assistants and all Class III posts included in the Common Statistical Cadre.	Director, Bureau of Economics, Statistics and Evaluation.	Director, Bureau of Economics, Statistics and Evaluation.	All	Secretary (Planning)-cum-Development Commissioner.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. R. Sawant, Deputy Secretary (Appointments).

Panaji, 25th November, 1971.

Finance (Revenue) Department

Notification

Fin(Rev)/CDL/1/71

In exercise of the powers conferred by section 22 of the Goa, Daman and Diu Excise Duty Act, 1964 (5 of 1964) the Government of Goa, Daman and Diu hereby makes the following further amendment to the Goa, Daman and Diu Excise Duty Rules, 1964, namely:—

1.(i) These rules may be called the Goa, Daman and Diu (Fifteenth Amendment) Rules, 1971.

(ii) They shall come into force at once.

2. Amendment of rules 67, 71(2) and 80—

For the number and words "20% under proof" and "20 percent under proof" appearing in rules 67, 71(2) and 80 of the Goa, Daman and Diu Excise Duty Rules, 1964 (hereinafter called "principal rules") the number and words "25% under proof" shall be substituted.

3. Insertion of new rule 19A.— After rule 19 of the principal rules, the following new rule shall be inserted, namely:—

"19A. Transport of liquor for personal consumption:—

Any person going out of Goa, Daman and Diu may on application made by him be granted a permit by the Excise Commissioner in the prescribed form to carry with him duty paid Indian made foreign liquor and/or Imported foreign liquor in such quantity as is prescribed in the State or Union Territory where the import of such liquor is permitted, subject to such conditions as the Commissioner may impose. The fee for each permit shall be Re. 1/- which should be paid in the form of court fee stamp to be affixed on the application made therefor".

4. Amendment of Chapter V of the principal rules.— In chapter V of the principal rules for the words "distillery or brewery" wherever they occur the words "distillery or brewery or winery" shall be substituted.

5. *Amendment of rule 63.*—For the existing rule 63 of the principal rules the following shall be substituted, namely:—

"63. Rent—When the trees sought to be tapped belong to the Government, a tree rent shall be paid by the tapper at the rates fixed by the Commissioner with the previous approval of the Government for each kind of tree but not exceeding Rs. 5/- per coconut tree and Rs. 3/- for other trees per each month of tapping.

6. *Amendment of Rule 71.*—For the existing sub-rule (3) of rule 71 of the principal rules the following shall be substituted, namely:—

"(3) The amount of duty payable on the quantity of liquor undertaken to be produced by the bidder shall be paid by him in two equal instalments. The first instalment shall be paid on the spot as soon as his bid is accepted and the second instalment within such time as may be prescribed by the Commissioner".

7. *Amendment of rule 72*—

(i) In sub-rule (3) of rule 72 of the principal rules for the words "may be fixed if the Commissioner considers it necessary" the words "shall be fixed by the Commissioner" shall be substituted,

(ii) The existing sub-rule (5) of rule 72 of the principal rules shall be substituted by the following, namely:—

"(5) If no bidder appears for the first auction or the offer is not accepted under the next succeeding sub-rule or any of the instalments is not paid as prescribed by sub-rule (8) the auction shall be held for a second time after due notice has been published in the news papers at least 8 days before the date fixed for auction. Thereafter if the zones still remain unbidded or any instalment towards the bid accepted in the second auction is not paid under the same sub-rule (8) the zones shall be disposed of by tender or otherwise at the discretion of the Commissioner but the offer so obtained shall be subject to the approval of the Government".

(iii) The existing sub-rule (8) of rule 72 of the principal rules shall be substituted by the following, namely:—

"(8) on failure of any successful bidder to comply with the provisions of any of the preceding sub-rules of this rule or to pay the first instalment under sub-rule (3) of rule 71, the deposit of Rs. 100/- made by him under sub-rule (4) of this rule shall be forfeited. Failure to pay the second instalment within the period prescribed by the Commissioner under sub-rule (3) of rule 71 the first instalment paid shall be forfeited. Any loss in excise duty caused to the Government by reason of fresh auction as a result of non-payment of any of the instalments, shall be recoverable from the bidder as an arrear of Land Revenue.

Explanation.—For the purpose of this sub-rule, loss means the amount obtained from the difference between the excise duty on the minimum quantity of liquor to be produced from each zone as fixed

under sub-rule (3) and the price for which zone has been actually disposed off by auction, tender or otherwise after deducting any amount forfeited under this sub-rule".

8. *Amendment of rule 75.*—For the existing rule 75 of the principal rules, the following shall be substituted namely:—

"75. In cases where the zones are disposed of by tender or otherwise in accordance with the provision of sub-rule (5) of rule 72, the amount offered shall, in the first instance, be collected immediately after the acceptance of the offer. Thereafter if the duty assessed on the production in such zones exceeds the amount offered, the excess duty shall be collected".

9. *Amendment of rule 76.*—After sub-rule (1) of rule 76 of the principal rules the following shall be inserted, namely:

"(1A) The Excise Inspector shall not issue transport permit for transporting cashew liquor from the warehouse of the licensee for 1/3 of the quantity of cashew liquor manufactured, unless the licensee produces written statements from the juice suppliers to the effect that their dues towards the cashew juice have been cleared.

"(1B) The licensee shall be bound to pay the price of the cashew juice within fifteen days from the date of supply failing which interest at the current Bank rate on loans will accrue from the date of supply".

10. *Amendment of rule 81.*—Existing rule 81 of the principal rules, shall be substituted by the following, namely:

"81. To whom the manufacturer can sell—The licence for manufacture covers the right to sell the liquor on payment of duty by wholesale only".

11. *Insertion of new rule 88A.*—After rule 88 of the principal rules the following new rule shall be inserted, namely:—

"88A.—Transport of country liquor for personal consumption—The provisions of rule 19A shall mutatis mutandis apply to permits issued for taking country liquor for personal consumption outside Goa".

12. *Amendment of 91.*—Existing rule 91 of the principal rule shall be substituted by the following, namely:—

"91. Period of licence and its renewal—

(i) Licences for sale other than occasional licences shall be granted for a period not exceeding three financial years. The application for renewal shall be made to the Commissioner within 15 days before the expiry of licences. If the application is granted, the first instalment shall be paid in advance before the licence is renewed.

(ii) The Excise Inspector shall within 8 days from the expiry of the licence issue notices in the form prescribed by the Commissioner to those licensed vendors who have not submitted their applications for renewal within the time prescribed under sub-rule (1).

(iii) If the licence vendor who has been served with a notice under sub-rule (ii) fails to apply for renewal within 8 days of service of such a notice, the licence shall automatically stand cancelled".

13. *Amendment of rule 102.* — Sub-rule (3) of rule 102 of the principal rules shall be deleted.

• By order and in the name of the Lt. Governor of Goa, Daman and Diu.

Puran Singh, Finance Secretary.

Panaji, 14th December, 1971.

Law and Judicial Department

Notification

LD/83/71

The Industries (Development and Regulation) Amendment Ordinance, 1971 (20 of 1971) promulgated by the President of India is hereby published for general information.

M. S. Borkar, Under Secretary.

Panaji, 15th November, 1971.

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 1st November, 1971/
Kartika 10, 1893 (Saka)

THE INDUSTRIES (DEVELOPMENT AND REGULATION) AMENDMENT ORDINANCE, 1971

No. 20 of 1971

Promulgated by the President in the Twenty-second Year of the Republic of India

An Ordinance further to amend the Industries (Development and Regulation) Act, 1951.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance: —

1. **Short title and commencement.** — (1) This Ordinance may be called the Industries (Development and Regulation) Amendment Ordinance, 1971.

(2) It shall come into force at once.

2. **Amendment of section 3.** — In the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the principal Act), in section 3, —

(i) after clause (a), the following clauses shall be inserted, namely: —

“(aa) “current assets” means bank balances and cash and includes such other assets or reserves as are expected to be realised in cash or

sold or consumed within a short period of time in the ordinary course of business, such as, stock-in-trade, amounts due from sundry debtors for sale of goods and for services rendered, advance tax payments and bills receivable, but does not include sums credited to a provident fund, a pension fund, a gratuity fund or any other fund for the welfare of the employees, maintained by a company owning an industrial undertaking;

(ab) “current liabilities” means liabilities which must be met on demand or within a period of twelve months from the date they are incurred;”

(ii) after clause (c), the following clause shall be inserted, namely: —

“(cc) “High Court” means the High Court having jurisdiction in relation to the place at which the registered office of a company is situate;”

(iii) after clause (i), the following clause shall be inserted, namely: —

“(j) words and expressions used herein but not defined in this Act and defined in the Companies Act, 1956, have the meanings respectively assigned to them in that Act.”

3. **Insertion of new section 15A.** — After section 15 of the principal Act, the following section shall be inserted, namely: —

“15A. **Power to investigate into the affairs of a company in liquidation.** — (1) Where a company, owning an industrial undertaking, is being wound up by or under the supervision of the High Court, and the business of such company is not being continued, the Central Government may, if it is of opinion that it is necessary, in the interests of the general public and, in particular, in the interests of production, supply or distribution of articles or class of articles relatable to the concerned scheduled industry, to investigate into the possibility of running or re-starting the industrial undertaking, make an application to the High Court praying for permission to make, or cause to be made, an investigation into such possibility by such person or body of persons as that Government may appoint for the purpose.

(2) Where an application is made by the Central Government under sub-section (1), the High Court shall, notwithstanding anything contained in the Companies Act, 1956, or in any other law for the time being in force, grant the permission prayed for.”

4. **Amendment of section 18.** — In section 18 of the principal Act, in sub-section (1), after the word and figures “section 15”, the words, figures and letter “or section 15A” shall be inserted.

5. **Insertion of new section 18AA.** — After section 18A of the principal Act, the following section shall be inserted, namely: —

“18AA. **Power to take over industrial undertakings without investigation under certain circumstances.** — (1) Without prejudice to any other provision of this Act, if, from the documentary or other evidence in its possession, the Central Go-

vernment is satisfied, in relation to an industrial undertaking, that —

(a) the persons in charge of such industrial undertaking have, by reckless investments or creation of encumbrances on the assets of the industrial undertaking, or by diversion of funds, brought about a situation which is likely to affect the production of articles manufactured or produced in the industrial undertaking, and that immediate action is necessary to prevent such a situation; or

(b) it has been closed for a period of not less than three months (whether by reason of the voluntary winding up of the company owning the industrial undertaking or for any other reason) and such closure is prejudicial to the concerned scheduled industry and that the financial condition of the company owning the industrial undertaking and the condition of the plant and machinery of such undertaking are such that it is possible to restart the undertaking and such re-starting is necessary in the interests of the general public,

it may, by a notified order, authorise any person or body of persons (hereafter referred to as the "authorised person") to take over the management of the whole or any part of the industrial undertaking or to exercise in respect of the whole or any part of the undertaking such functions of control as may be specified in the order.

(2) The provisions of sub-section (2) of section 18A shall, as far as may be, apply to a notified order made under sub-section (1) as they apply to a notified order made under sub-section (1) of section 18A.

(3) Nothing contained in sub-section (1) and sub-section (2) shall apply to an industrial undertaking owned by a company which is being wound up by or under the supervision of the Court.

(4) Where any notified order has been made under sub-section (1), the person or body of persons having, for the time being, charge of the management or control of the industrial undertaking, whether by or under the orders of any court or any contract, instrument or otherwise, shall, notwithstanding anything contained in such order, contract, instrument or other arrangement, forthwith make over the charge of management or control, as the case may be, of the industrial undertaking to the authorised person.

(5) The provisions of sections 18B to 18E (both inclusive) shall, as far as may be, apply to, or in relation to, the industrial undertaking, in respect of which a notified order has been made under sub-section (1), as they apply to an industrial undertaking in relation to which a notified order has been issued under section 18A.

6. Insertion of new Chapters IIIAA, IIIAB and IIIAC. — After Chapter IIIA of the principal Act, the following Chapters shall be inserted, namely: —

'CHAPTER IIIAA

Management or control of industrial undertakings owned by companies in liquidation

18FA. Power of Central Government to authorise, with the permission of the High Court, per-

sons to take over management or control of industrial undertakings. — (1) If the Central Government is of opinion that there are possibilities of running or re-starting an industrial undertaking, in relation to which an investigation has been made under section 15A, and that such industrial undertaking should be run or re-started, as the case may be, for maintaining or increasing the production, supply or distribution of articles, or class of articles relatable to the scheduled industry, needed by the general public, that Government may make an application to the High Court praying for permission to appoint any person or body of persons to take over the management of the industrial undertaking or to exercise in respect of the whole or any part of the industrial undertaking such functions of control as may be specified in the application.

(2) Where an application is made under sub-section (1), the High Court shall make an order empowering the Central Government to authorise any person or body of persons (hereinafter referred to as the "authorised person") to take over the management of the industrial undertaking or to exercise functions of control in relation to the whole or any part of the industrial undertaking (hereinafter referred to as the "concerned part") for a period not exceeding five years:

Provided that if the Central Government is of opinion that it is expedient in the interests of the general public that the authorised person should continue to manage the industrial undertaking, or continue to exercise functions of control in relation to the concerned part, as the case may be, after the expiry of the period of five years aforesaid, it may make an application to the High Court for the continuance of such management or functions of control, for such period, not exceeding two years at a time, as may be specified in the application and thereupon the High Court may make an order permitting the authorised person to continue to manage the industrial undertaking or to exercise functions of control in relation to the concerned part:

Provided further that the total period of such continuance (after the expiry of the initial period of five years) shall not, in any case, be permitted to exceed ten years.

(3) Where an order has been made by the High Court under sub-section (2), the High Court shall direct the Official Liquidator or any other person having, for the time being, charge of the management or control of the industrial undertaking whether by or under the orders of any court, or any contract or instrument or otherwise, to make over the management of such undertaking or the concerned part, as the case may be, to the authorised person and thereupon the authorised person shall be deemed to be the Official Liquidator in respect of the industrial undertaking or the concerned part, as the case may be.

(4) Before making over the possession of the industrial undertaking or the concerned part to the authorised person, the Official Liquidator shall make a complete inventory of all the current assets and liabilities of the industrial undertaking or the concerned part, as the case may be, in the manner specified in section 18FG and deliver a copy of such inventory to the authorised person, who shall,

after verifying the correctness thereof, sign on the duplicate copy thereof as evidence of the receipt of the inventory by him.

(5) On taking over the management of the industrial undertaking, or on the commencement of the exercise of functions of control in relation to the concerned part, the authorised person shall take immediate steps to so run the industrial undertaking or the concerned part as to ensure the maintenance of production.

(6) The authorised person may, on such terms and conditions and subject to such limitations or restrictions as may be prescribed, raise any loan for the purpose of running the industrial undertaking or the concerned part, and may, for that purpose, create a floating charge on the current assets of the industrial undertaking or the concerned part, as the case may be.

(7) Where the authorised person is of opinion that the replacement or repair of any machinery of the industrial undertaking or the concerned part is necessary for the purpose of efficient running of the industrial undertaking or such part, he shall, on such terms and conditions and subject to such limitations or restrictions as may be prescribed make such replacement or repair, as the case may be.

(8) The loan obtained by the authorised person shall be recovered from the current assets of the industrial undertaking or the concerned part, in such manner and subject to such conditions as may be prescribed.

(9) For the purpose of running the industrial undertaking, or exercising functions of control in relation to the concerned part, the authorised person may employ such of the former employees of the industrial undertaking whose services became discharged by reason of the winding up of the company owning such undertaking and every such person employed by the authorised person shall be deemed to have entered into a fresh contract of service with the company.

(10) The proceedings in the winding up of the company in so far as they relate to —

(a) the industrial undertaking, the management of which has been taken over by the authorised person under this section, or

(b) the concerned part in relation to which any function of control is exercised by the authorised person under this section,

shall, during the period of such management or control, remain stayed, and, in computing the period of limitation for the enforcement of any right, privilege, obligation or liability in relation to such undertaking or the concerned part, the period during which such proceedings remained stayed shall be excluded.

CHAPTER IIIAB

Power to provide relief to certain industrial undertakings

18FB. Power of Central Government to make certain declarations in relation to industrial undertakings, the management or control of which has been taken over under section 18A,

section 18AA or section 18FA. — (1) The Central Government may, if it is satisfied, in relation to an industrial undertaking or any part thereof, the management or control of which has been taken over under section 18A, section 18AA or section 18FA, that it is necessary in the interests of the general public with a view to preventing fall in the volume of production of any scheduled industry, it may, by notified order, declare that —

(a) all or any of the enactments specified in the Third Schedule shall not apply or shall apply with such adaptations, whether by way of modification, addition or omission (which does not, however, affect the policy of the said enactments) to such industrial undertaking, as may be specified in such notified order, or

(b) the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which such industrial undertaking or the company owning such undertaking is a party or which may be applicable to such industrial undertaking or company) immediately before the date of issue of such notified order shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified in the notified order.

(2) The notified order made under sub-section (1) shall remain in force, in the first instance, for a period of one year, but the duration of such notified order may be extended from time to time by a further notified order by a period not exceeding one year at a time:

Provided that no such notified order shall, in any case, remain in force —

(a) after the expiry of the period for which the management of the industrial undertaking was taken over under section 18A, section 18AA or section 18FA, or

(b) for more than five years in the aggregate from the date of issue of the first notified order,

whichever is earlier.

(3) Any notified order made under sub-section (1) shall have effect notwithstanding anything to the contrary contained in any other law, agreement or instrument or any decree or order of a court, tribunal, officer or other authority or of any submission, settlement or standing order.

(4) Any remedy for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of sub-section (1) and suspended or modified by a notified order made under that sub-section shall, in accordance with the terms of the notified order, remain suspended or modified, and all proceedings relating thereto pending before any court, tribunal, officer or other authority shall accordingly remain stayed or be continued subject to such adaptations, so, however, that on the notified order ceasing to have effect —

(a) any right, privilege, obligation or liability so remaining suspended or modified shall

become revived and enforceable as if the notified order had never been made;

(b) any proceeding so remaining stayed shall be proceeded with, subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceedings became stayed.

(5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of sub-section (1), the period during which it or the remedy for the enforcement thereof remained suspended shall be excluded.

CHAPTER IIIAC

Liquidation or reconstruction of companies

18FC. Power of Central Government to call for report on the affairs and working of managed company.—Where the management or control of an industrial undertaking has been taken over under section 18A, section 18AA or section 18FA, the Central Government may, at any time during the continuance of such management or control, call for a report from the authorised person on the affairs and working of the industrial undertaking and in submitting the report the authorised person shall take into account the inventory and lists of members and creditors prepared under section 18FG.

18FD. Decision of Central Government in relation to managed company.—(1) If, on receipt of the report submitted by the authorised person, the Central Government is satisfied,—

(a) in relation to the company owning the industrial undertaking, which is not being wound up by the High Court, that the financial condition and other circumstances of the company are such that it is not in a position to meet its current liabilities out of its current assets, that Government may, if it considers necessary or expedient in the interests of the general public so to do, by order, decide that the industrial undertaking should be sold as a running concern as provided in section 18FE and proceedings should simultaneously be started for the winding up, by the High Court, of the company;

(b) in relation to the company, owning the industrial undertaking, which is being wound up by the High Court, that its assets and liabilities are such that in the interests of its creditors and contributories the industrial undertaking should be sold as a running concern as provided in section 18FE, it may, by order, decide accordingly.

(2) Notwithstanding anything contained in sub-section (1), if, on receipt of the report submitted by the authorised person, the Central Government is satisfied that—

(a) in the interests of the general public, or

(b) in the interests of the shareholders, or

(c) to secure the proper management of the company owning the industrial undertaking,

it is necessary so to do, that Government may, by order, decide to prepare a scheme for the recons-

truction of the company owning the industrial undertaking:

Provided that no such scheme shall be prepared in relation to a company which is being wound up by or under supervision of the High Court, except with the previous permission of that Court.

(3) The powers exercisable by the Central Government under section 18F, in relation to an undertaking taken over under section 18A, shall also be exercisable in relation to an undertaking taken over under section 18AA or section 18FA, but such powers shall not be exercised after the making of an order under sub-section (1) or, as the case may be, under sub-section (2) of this section.

18FE. Provisions where Government decides to follow the course of action specified in section 18FD(1).—(1) The provisions hereinafter laid down shall apply where the Central Government decides that the course of action specified in sub-section (1) of section 18FD should be followed, namely:—

(a) the decision of the Central Government that the course of action specified in clause (a) of sub-section (1) of section 18FD should be followed in relation to a company owning an industrial undertaking shall be deemed to be a ground specified in section 433 of the Companies Act, 1956, on which the company may be wound up by the High Court;

1 of 1956.

(b) the authorised person shall, as soon as may be, after the decision specified in clause (a) of sub-section (1) of section 18FD has been taken by the Central Government, present an application to the High Court for the winding up of the company owning the industrial undertaking;

(c) when an application is made by the authorised person under clause (b) for the winding up, by the High Court, of the company owning the industrial undertaking, the High Court shall order the winding up of the company and shall, notwithstanding anything contained in the Companies Act, 1956, appoint the authorised person as the Official Liquidator in relation to such undertaking, and, until the industrial undertaking referred to in clause (a) or clause (b) of sub-section (1) of section 18FD is sold or purchased in pursuance of this section, the authorised person shall continue to function as the Official Liquidator in relation to the said undertaking in the winding up proceedings of the company, and, thereafter the Official Liquidator appointed by the Central Government under section 448 of the Companies Act, 1956, shall take over and function as the Official Liquidator in the said proceedings;

1 of 1956.

(d) the authorised person shall make a report to the Central Government as to what should be the reserve price for the sale of the industrial undertaking as a running concern, and in making such a report, he shall have regard to —

(i) the financial condition of the company owning the industrial undertaking on the date on which the order under section 18FD is made —

- (1) as disclosed in its books of account,
- (2) as disclosed in its balance-sheet and profit and loss account during a period of five years immediately preceding the said date;

(ii) the condition and nature of the plant, machinery, instruments and other equipment from the point of view of their suitability for profitable use in the running of the industrial undertaking;

(iii) the total amount of liability on account of secured and unsecured debts including overdrafts, if any, drawn on banks, liabilities on account of terminal benefits to the employees and other borrowings and other liabilities of the company; and

(iv) other relevant factors including the factor that the industrial undertaking will be sold free from all encumbrances, and notice of such price shall be given in such manner as may be prescribed to the members and creditors of the company owning such industrial undertaking to make representations within a specified time to the Central Government through the authorised person and the Central Government after considering the representations received and the report of the authorised person, determine the reserve price;

(e) the authorised person shall thereafter, with the permission of the High Court, invite tenders from the public in such manner as may be determined by the High Court for the sale of the industrial undertaking as a running concern subject to the condition that it will be sold to the person offering the highest price which shall not be less than the reserve price determined under clause (d) :

Provided that the High Court shall not refuse to grant such permission if it is satisfied that the company is not in a position to meet its current liabilities out of its current assets;

(f) the industrial undertaking shall be sold to the highest bidder, as a running concern, only if the price offered by him therefor is not less than the reserve price;

(g) where no offer of price is equal to, or more than, the reserve price, the industrial undertaking shall be purchased by the Central Government at the reserve price;

(h) the amount realised from the sale of the industrial undertaking as a running concern together with any other sum which may be realised from any contributory, purchaser or any other person from whom any money is due to the company shall be utilised in accordance with the pro-

visions of the Companies Act, 1956, 1 of 1956, in discharging the liabilities of the company and distributing the balance if any, amongst the members of the company;

(i) in other respects, the provisions of the Companies Act, 1956, 1 of 1956, relating to the winding up of a company by the High Court shall, as far as may be, apply.

(2) When an industrial undertaking is sold to any person under clause (f), or purchased by the Central Government under clause (g), of sub-section (1), there shall be transferred to and vested in the purchaser, free from all incumbrances, all such assets relating to the industrial undertaking as are referred to in sub-clause (i) of clause (a) of section 18FG and existing at the time of the sale or purchase.

18FF. Provisions where Government decides to follow the course of action specified in section 18FD(2).—(1) Where in any case the Central Government decides that the course of action specified in sub-section (2) of section 18FD should be followed, it shall, subject to the provisions of that sub-section, cause to be prepared, by the authorised person, a scheme for the reconstruction of the company, owning the industrial undertaking, in accordance with the provisions hereinafter contained and the authorised person shall submit the same for the approval of that Government.

(2) The scheme for the reconstruction of the company owning the industrial undertaking may contain provisions for all or any of the following matters, namely:—

(a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations of the company on its reconstruction;

(b) any change in the Board of directors, of the appointment of a new Board of directors of the company on its reconstruction and the authority by whom, the manner in which and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of directors or of any director, the period for which such appointment shall be made;

(c) the vesting of controlling interest, in the reconstructed company, in the Central Government either by the appointment of additional directors or by the allotment of additional shares;

(d) the alteration of the memorandum of association of the company, on its reconstruction, to give effect to such reconstruction;

(e) subject to the provisions of the scheme, the continuation by or against the company, on its reconstruction, of any action or proceedings pending against the company immediately before the date of its reconstruction;

(f) the reduction of the interest or rights which the members and creditors have in or against the company before its reconstruction to such extent as the Central Government may consider necessary in the interests of the gene-

ral public or in the interests of the members and creditors or for the maintenance of the business of the company:

Provided that nothing contained in this clause shall be deemed to authorise the reduction of the interest or rights of any creditor (including Government) in respect of any loan or advance made by that creditor to the company after the date on which the management of the industrial undertaking of the company has been taken over under section 18A, section 18AA, or section 18FA;

(g) the payment in cash or otherwise to the creditors in full satisfaction of their claim —

(i) in respect of their interest or rights in or against the company before its reconstruction; or

(ii) where their interest or rights in or against the company has or have been reduced under clause (f), in respect of such interest or rights as so reduced;

(h) the allotment to the members of the company for shares held by them therein before its reconstruction [whether their interest in such shares has been reduced under clause (f) or not], of shares in the company on its reconstruction and where it is not possible to allot shares to any members, the payment in cash to those members in full satisfaction of their claim —

(1) in respect of their interest in shares in the company before its reconstruction; or

(2) where such interest has been reduced under clause (f), in respect of their interest in shares as so reduced;

(i) the offer by the Central Government to acquire by negotiations with the members of the company their respective shares on payment in cash to those members who may volunteer to sell their shares to the Central Government in full satisfaction of their claim —

(1) in respect of their interest in shares in the company before its reconstruction; or

(2) where such interest has been reduced under clause (f), in respect of their interest in shares as so reduced;

(j) the conversion of any debentures issued by the company after the taking over of the company under section 18A or section 18AA or section 18FA or of any loans obtained by the company after the date or of any part of such debentures or loans, into shares in the company and the allotment of those shares to such debenture-holders or creditors, as the case may be;

(k) the increase of the capital of the company by the issue of new shares and the allotment of such new shares to the Central Government;

(l) the continuance of the services of such of the employees of the company as the Central Government may specify in the scheme in the company itself, on its reconstruction, on such terms and conditions as the Central Government thinks fit;

(m) notwithstanding anything contained in clause (l), where any employees of the company whose services have been continued under clause (l) have, by notice in writing

given to the company at any time before the expiry of one month next following the date on which the scheme is sanctioned by the High Court, intimated their intention of not becoming employees of the company on its reconstruction, the payment to such employees and to other employees whose services have not been continued on the reconstruction of the company, of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947, 14 of 1947, and such pension, gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorisations of the company immediately before the date of its reconstruction;

(n) any other terms and conditions for the reconstruction of the company;

(o) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction of the company shall be fully and effectively carried out.

(3) (a) A copy of the scheme, as approved by the Central Government, shall be sent in draft to the company and to the creditors thereof for suggestions and objections, if any, within such period as the Central Government may specify for this purpose;

(b) the Central Government may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the company and from any members or creditors of the company.

(4) The scheme shall thereafter be placed before the High Court for its sanction and the High Court, if satisfied that the scheme is in the interests of the general public or in the interests of the shareholders or for securing the proper management of the company and that the scheme is designed to be fair and reasonable to the members and creditors of the company, may, after giving a reasonable opportunity to the company and to its members and creditors of showing cause, sanction the scheme without any modification or with such modifications as it may consider necessary.

(5) The scheme, as so sanctioned by the High Court, shall come into force on such date as that Court may specify in this behalf:

Provided that different dates may be specified for different provisions of the scheme.

(6) The sanction accorded by the High Court under sub-section (4) shall be conclusive evidence that all the requirements of this section relating to the reconstruction of the company have been complied with, and a copy of the sanctioned scheme certified by the High Court to be a true copy thereof, shall, in all legal proceedings (whether original or in appeal or otherwise), be admitted as evidence to the same extent as the original scheme.

(7) On and from the date of the coming into operation of the scheme or any provision thereof,

the scheme or such provision shall be binding on the company and also on all the members and other creditors and employees of the company and on any other person having right or liability in relation to the company.

(8) On the coming into operation of the scheme or any provision thereof, the authorised person shall cease to function, and the management of the reconstructed company shall be assumed by the Board of directors as provided in the scheme.

(9) Copies of the scheme shall be laid before each House of Parliament, as soon as may be, after the scheme has been sanctioned by the Court.

(10) The provisions of this section and of any scheme made thereunder shall have effect notwithstanding anything contained in section 391 to 394A (both inclusive) of the Companies Act, 1956.

1 of 1956.

18FG. Preparation of inventory of assets and liabilities and list of members and creditors of managed company.—For the purposes of this Act, the authorised person shall, as soon as may be, after taking over the management of the industrial undertaking of a company under section 18A, or section 18AA or section 18FA, —

(a) prepare a complete inventory of —

(i) all properties, movable and immovable, including lands, buildings, works, workshops, stores, instruments, plant, machinery, automobiles and other vehicles, stocks of materials in the course of production, storage or transit, raw materials, cash balances, cash in hand, deposits in bank or with any other person or body or on loan, reserve funds, investments and book debts and all other rights and interests arising out of such property as were immediately before the date of taking over of the industrial undertaking in the ownership, possession, power or control of the company, whether within or without India; and all books of account, registers, maps, plans, sections, drawings, records, documents or titles of ownership of property, and all other documents of whatever nature relating thereto; and

(ii) all borrowings, liabilities and obligations of whatever kind of the company including liability on account of terminal benefits to its employees subsisting immediately before the said date;

(b) prepare separately a list of members, and a list of creditors, of such company as on the date of taking over of the management of the industrial undertaking showing separately in the list of creditors, the secured creditors and the unsecured creditors:

Provided that where the management of the industrial undertaking of a company has been taken over under the said section 18A before the commencement of this Act, the aforesaid functions shall be performed by the authorised person within six months from such commencement.

18FH. Stay of suits and other proceedings.—In the case of a company in respect of which an order under section 18FD has been made, no suit or other legal proceeding shall be instituted or continued against the company except with the previous permission of the Central Government or any officer or authority authorised by that Government in this behalf.

7. Amendment of section 25.—In sub-section (1) of section 25 of the principal Act, for the word, figures and letter “and 18A”, the word, figures and letters “, 18A, 18AA and 18FA” shall be substituted.

8. Insertion of new section 29D.—After section 29C of the principal Act, the following section shall be inserted, namely:—

“29D. Debts incurred by authorised persons to be preferential debts.—

Every debt arising out of any loan obtained by the authorised person for carrying on the management of, or exercising functions of control in relation to, any industrial undertaking or part thereof which has been taken over under section 18A, section 18AA or section 18FA, shall be a preferential debt within the meaning of section 530 of the Companies Act, 1956, and such debts shall rank equally among themselves and be paid in full out of the current assets of the industrial undertaking unless such current assets are insufficient to meet them, in which case they shall abate in equal proportion.”

1 of 1956.

9. Amendment of section 30.—In section 30 of the principal Act, in sub-section (2), after clause (p), the following clause shall be inserted, namely:—

“(pp) any matter which is to be or may be prescribed for giving effect to the provisions of Chapter IIIA or Chapter IIIC;”.

10. Insertion of new Schedule.—In the principal Act, after the Second Schedule, the following Schedule shall be inserted, namely:—

THE THIRD SCHEDULE

(See section 18FB)

1. The Industrial Employment (Standing Orders) Act, 1946. 20 of 1946.
2. The Industrial Disputes Act, 1947. 14 of 1947.
3. The Minimum Wages Act, 1948.”. 11 of 1948.

11. Repeal and savings.—(1) The Cotton Textile Companies (Management of Undertakings and Liquidation or Reconstruction) Act, 1967 is hereby repealed. 29 of 1967.

(2) Notwithstanding such repeal, anything done or any action taken, order, rule or appointment made, scheme prepared or reserve price fixed under the Act so repealed shall in so far as it is not inconsistent with the provisions of this Ordinance be deemed to have been done, taken, made, prepared or fixed under the corresponding provisions of the Industries

(Development and Regulation) Act, 1951, 65 of 1951, as amended by this Ordinance as if the said Act as so amended were in force on the date on which such thing was done, action was taken, order, rule or appointment was made, scheme was prepared and reserve price was fixed and any proceeding commenced under the Act so repealed which was pending immediately before the commencement of this Ordinance may be continued from the stage which was reached in such proceeding immediately before such commencement as if such proceeding were commenced under the corresponding provisions of the Industries (Development and Regulation) Act, 1951, as amended by this Ordinance.

V. V. GIRI,
President.

N. D. P. NAMBOODIRIPAD,
Joint Secy. to the Government of India.

Notification

LD/4431/71

The following notification No. F. 22-1/70-PPS(i) dated 27th February, 1971, notification No. F.3-3/71-AE dated 10th August, 1971 and notification No. 102/2/70-HI dated 1st September, 1971 issued by the Ministry of Law and Justice, Government of India, New Delhi is hereby published for general information.

M. S. Borkar, Under Secretary.

Panaji, 23rd November, 1971.

GOVERNMENT OF INDIA

MINISTRY OF FOOD, AGRICULTURE, COMMUNITY DEVELOPMENT AND COOPERATION

(Department of Agriculture)

Notification

New Delhi, the 27th February, 1971.

G. S. R. 300. — In exercise of the powers conferred by Sub-section (3) of Section 1 of the Insecticides Act, 1968 (46 of 1968), the Central Government hereby appoints the 1st day of March, 1971, as the date on which the provisions of sections 4, 7, 8 and 36 of the said Act shall come into force.

[No. F.22-1/70-PPS(i)]

SWASTHYA AUR PRIVARE NIYOJAN MANTRALAYA

(Swasthya Vibhag)

Notification

New Delhi, the 10th August, 1971

S. O. 29. — In exercise of the powers conferred by sub-section (3) of section 1 of the Indian Medicine

Central Council Act, 1970 (48 of 1970), the Central Government hereby appoints: —

- (a) the 15th August, 1971 as the date on which the provisions of sections 2, 13, 32, 33, 34, 35 and 36 of the said Act shall come into force in the whole of India.
- (b) the 15th August, 1971 as the date on which the provisions of section 3, 5 to 12 (both inclusive) and 14 to 16 (both inclusive) of the said Act shall come into force in all the States (Except the State of Nagaland) and in the Union Territory of Delhi.

[No. F.3-3/71-AE.]

PREMA JOHARI
Jt. Secretary.

MINISTRY OF LABOUR AND REHABILITATION

(Deptt. of Labour & Employment)

Notification

New Delhi, the 1st September, 1971

S. O. 3262. — In exercise of the powers conferred by sub-section (3) of section 1 of the Employees State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the first day of September, 1971 as the date on which the provisions of Chapters I, II, III, VA VII and VIII and Sections 44 and 45 of Chapter IV of the said Act shall come into force in the Union territory of Goa, Daman and Diu.

(No. F. 102/2/70-HI.)

D. S. NIM
Jt. Secy.

Local Self Government Department

Notification

DF-661-FOR-64/71

In exercise of the powers conferred by clause (b) of Section 76 of the Indian Forest Act, 1927 (16 of 1927) and all other power enabling him in this behalf the Lt. Governor of Goa, Daman and Diu hereby makes the following rules namely: —

1. These rules may be called the Goa, Daman and Diu Forest (rewards and certificates) Rules, 1971.

2. Award for prevention and detection of offences. — (i) In a case in which under section 68 of the Indian Forest Act, 1927, a Forest Officer, duly empowered in this behalf has accepted a sum of money as compensation for any offence which has been committed, the Conservator of Forests, Goa, Daman and Diu, may authorise the payment of portion or the whole of the amount so realised as reward to any person who may have contributed to the discovery of the offence or the arrest of the offender.

(ii) In a case taken upto court for trial under the Indian Forest Act, 1927 the trying Magistrate may, after convicting the offender, grant a reward not exceeding the amount of the fine imposed together with the estimates value of the timber of forest produce or other articles confiscated in such proportion as he may think proper, to any person or persons who have contributed to the seizure of the property confiscated or the arrest of the offender or their conviction.

(iii) For encroachments upon Government lands which are vested with the Forest Department, any person helping the Govt. in detection and prosecution leading to conviction and reversion of the land to Govt. the Conservator of Forests, Goa, Daman and Diu is empowered to give suitable rewards upto a maximum of Rs. 500/- in each case and the Government upto a maximum of Rs. 1,000/- Government servants of non-gazetted ranks are eligible for the reward in above cases.

The actual payment of the reward will not be made until the fine and proceeds of the sale of the property are realized and the period allowed for filing an appeal is over or such an appeal is disposed off.

After the disposal of a Forest offence case, the trying Magistrate will convey promptly a copy of the judgement of the case including orders for the disposal of the confiscated property and the grant of reward to the Conservator of Forests who will on receipt of the copy of the judgement take necessary action in the matter.

(iv) When the offender on conviction is sentenced to imprisonment and no fine is imposed upon him or if a fine is imposed but remitted on appeal, and, therefore, no reward could be granted but the Conservator of Forests, Goa, Daman and Diu considers that the case is of sufficient importance to justify the grant of reward or is a reward is granted but is, in the opinion of the Conservator of Forests, insufficient in consideration of the importance of the case, rewards may be granted by the Conservator of Forests, at his discretion if there is provision in that behalf in his budget but the amount of reward shall not exceed Rs. 100/- in any single Forest offence or Rs. 200/- including the reward granted by the Magistrate out of the fine and value of confiscated property without prior sanction of the Government.

• (v) The Conservator of Forests, may grant rewards upto Rs. 100/- in any single case to persons who may have rendered meritorious service in the prevention or detection of Forest offence or the seizure of articles or the capture of offenders or reversion of encroached land to Government. Forest subordinates and non-gazetted Government servants of other departments are also eligible for it provided that the service rendered has been attended with considerable risk to bodily injury or to life or property. In case when Government official loses his life while helping in detection and prevention of an offence, the Government may grant his widow or next of kin a regular monthly award depending upon the pay of the official upto to maximum of 33% of basic pay. When an injury has been inflicted on the Government official disabling him permanently, the Conservator of Forests is authorized to grant a cash compensation upto a maximum of Rs. 1,000/- and the Government may grant premature pension to the disabled Government servant.

3. **Award for assistance rendered in fire protection.**—The Conservator of Forests, may grant rewards upto Rs. 100/- to persons including Government servant of non-gazetted rank for putting out forest fires or rendering valuable assistance in fire protection.

4. **Award for rendering exceptional meritorious service and displaying outstanding devotion to duty and for outstanding work.**—The Conservator of Forests, may grant a cash award of a maximum amount of Rs. 500/- and minimum of Rs. 100/- to the officers and subordinates of the forest department for rendering exceptional meritorious service and displaying devotion to duty, honesty and integrity.

5. **Constitution of a committee.**—On the recommendation of the Conservator of Forests a Committee shall be constituted once a year consisting of three members out of which two will be Forest Officers including the Conservator of Forests who will review all the cases recommended by the Departments for grant of rewards and decide each case on its merits. The decision of the Committee will be binding and is not subject to any appeal by any employees of the department. The awards will be declared on 26th January each year. Not more than one award will be given during a year to a single person.

6. **Appreciation certificate.**—(1) In cases where no award is given but the case deserves recommendation by the Government, the Conservator of Forests is authorized to issue "APPRECIATION CERTIFICATES" to those employees of Forest Department who have helped in either prevention or detection of the Forest offences, assistance for fire prevention or for outstanding departmental work or for showing high sense of duty, integrity and honesty. Such certificates will only be awarded to each official once during a year on 26th January each year. An entry to this effect will be made in the Confidential Rolls of recipient and such employees who get at least three "Appreciation Certificates" will be considered for accelerated merit promotion in respect of seniority if the recipient has completed four years continuous service in the same grade. In other cases 2 "Appreciation Certificates" will enhance the seniority in the grade by one year at the time of consideration for promotion to higher grade. This will be taken in view by the department promotion committee.

(2) Cases for grant of "Appreciation Certificates" will be considered by a Committee of three members consisting of one Range Officer, One Asstt., Conservator of Forests and one Deputy Conservator of Forests nominated by the Conservator of Forests. The decision of the Committee will be binding and not liable to appeal.

(3) The "Appreciation Certificate" is liable to be forfeited when the holder is guilty of disloyalty or such conduct as in the opinion of the Conservator of Forests brings the Forest Department in disrepute.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

R. I. Jai Prakash, Under Secretary (Revenue).

Panaji, 6th December, 1971.

Food and Civil Supplies Department

ORDER

2-13/69/FCS-CS

In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955) read with the Notification of the Government of India, in the Ministry of Food & Agriculture (Department Food) G. S. R. No. IIII dated 24th July, 1967 and with the prior concurrence of the Central Government, the Administrator of Goa, Daman and Diu hereby makes the following order so as to amend the Goa, Daman and Diu Essential Articles Price (Display and Control) Order 1968 hereinafter called the "Principal Order" namely:—

1. *Short title.*—This order may be called the Goa, Daman and Diu Essential Articles Price (Display and Control) (Amendment) Order 1971.
2. It shall come into force immediately.
3. Amendment of the Schedule.

The following serial number and entry shall be added to the Schedule after serial No. 11 and entry relating thereto:—

"12 Sugar".

By order and in the name of the Administrator of Goa, Daman and Diu.

T. Kipgen, Development Commissioner.

Panaji, 13th December, 1971.

Labour and Information Department

Mormugao Port Trust

Notification

MPT/10-GA(7)/71

As required under Section 124(1) of the Major Port Trusts Act, 1963, it is hereby notified that the Central Government vide Ministry of Shipping and Transport's letter No. 7-PG(25)/71 dated the 27th October, 1971 have accorded approval to the amendment to the Mormugao Port Regulations published in the Official Gazette Nos. 16 and 17 Series I dated the 15th and 22nd July, 1971 respectively.

The amendment will be effective from the date of the publication of this notification.

By order,

M. J. Kurian

Deputy Secretary

Mormugao, 5th November, 1971.